

**Illinois Department of Revenue  
Regulations**

<b>Title 86 Part 470 Section 470.140 Claims to Recover Erroneously Paid Tax</b>
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**TITLE 86: REVENUE**

**PART 470  
THE GAS REVENUE TAX ACT**

**Section 470.140 Claims to Recover Erroneously Paid Tax**

a) Where a taxpayer has paid to the Department any tax or penalty or interest not due under the provisions of the Act, either as a result of a mistake of fact or an error of law, such taxpayer may file a claim for credit on the form provided by the Department for that purpose. Upon receipt of such claim, the Department will examine the same; and upon approval, the Department will issue a credit memorandum in the amount of the overpayment. Such credit memorandum may be applied by the taxpayer to discharge any liability for tax or penalty or interest due or to become due from him under The Gas Revenue Tax Act.

b) In no case may a taxpayer deduct, from the amount of tax to be remitted as shown by a return made to the Department, the amount of any overpayment of tax made by him during any prior period of time unless such deduction is supported by a duly issued credit memorandum.

c) Credit memoranda issued to any taxpayer on account of any overpayment of taxes or penalties or interest under any other law shall not be used to discharge any liability for tax or penalty or interest under The Gas Revenue Tax Act.

d) A credit memorandum issued under The Gas Revenue Tax Act may (subject to reasonable rules of the Department) be assigned by the person to whom such credit memorandum is issued to any other taxpayer under The Gas Revenue Tax Act.

e) In case the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department will make such refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum). The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives a large credit memorandum which it therefore might take the claimant a long time to liquidate by using it to pay current taxes. In these situations, the claimant probably would have to sell the credit memorandum at a loss in order to realize anything from it within any reasonable period of time.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_\_)

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